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DEPARTMENT OF COMMERCE

International Trade Administration

A-557-816

Certain Steel Nails from Malaysia: Preliminary Results of the Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On November 17, 2015, the Department of Commerce (the “Department”) initiated a changed circumstance review (“CCR”) of the antidumping duty (“AD”) order on certain steel nails (“nails”) from Malaysia. Pursuant to section 751(b) of the Tariff Act of 1930, as amended (“the Act”), and 19 CFR 351.216, the Department preliminarily determines that Inmax Sdn. Bhd. (“Inmax Sdn”) and Inmax Industries Sdn. Bhd. (“Inmax Industries”) (collectively, “Inmax”) should be collapsed and assigned the same AD cash deposit rate for purposes of determining AD liability in this proceeding. Interested parties are invited to comment on these preliminary results.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]

FOR FURTHER INFORMATION CONTACT: Moses Song, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5041.

## SUPPLEMENTARY INFORMATION:

### Background

On July 13, 2015, the Department published the AD order on nails from Malaysia in the *Federal Register*.<sup>1</sup> On September 2, 2015, Mid Continent Steel & Wire, Inc. (“Petitioner”) requested that the Department conduct a CCR, pursuant to section 751(b) of the Act and 19 CFR 351.216, to determine that Inmax Sdn and Inmax Industries should be collapsed and assigned the same AD cash deposit rate assigned to Inmax Sdn.<sup>2</sup> On November 17, 2015, the Department initiated this CCR, pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(c) and (d), upon finding that there is sufficient information and “good cause” regarding new trading patterns and possible evasion of the *Order*.<sup>3</sup>

### Scope of the Order

The merchandise covered by the *Order* is certain steel nails having a nominal shaft length not exceeding 12 inches.<sup>4</sup> Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel. Merchandise covered by this order is currently classified in the Harmonized Tariff System of the United States (“HTSUS”) under subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30,

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<sup>1</sup> See *Certain Steel Nails From the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 80 FR 39994 (July 13, 2015) (“*Order*”).

<sup>2</sup> See Letter from Petitioner to the Department, regarding “Certain Steel Nails from Malaysia: Request for Changed Circumstances Review,” dated September 2, 2015 (“CCR Request”).

<sup>3</sup> See *Certain Steel Nails From Malaysia: Initiation of Antidumping Duty Changed Circumstances Review*, 80 FR 71772 (November 17, 2015) (“*Initiation Notice*”).

<sup>4</sup> The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

7317.00.65.60 and 7317.00.75.00. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this order is dispositive.

A complete description of the scope of the *Order* is contained in the Preliminary Decision Memorandum.<sup>5</sup> The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

#### Methodology

We are conducting this CCR in accordance with section 751(b)(1) of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

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<sup>5</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Moses Song, International Trade Compliance Analyst, Office VI, through Scot Fullerton, Director, Office VI, regarding "Decision Memorandum for the Preliminary Results of the Antidumping Duty Changed Circumstances Review of Certain Steel Nails from Malaysia," dated concurrently with and hereby adopted in this notice.

### Preliminary Results of the Changed Circumstances Review

We preliminarily determine that Inmax Sdn and Inmax Industries are affiliated and should be collapsed as a single entity. Specifically, we find that Inmax Sdn and Inmax Industries are directly controlled by Inmax Holding Co., Ltd. (Inmax Holding) as Inmax Sdn and Inmax Industries are both wholly-owned by Inmax Holding, thereby meeting the affiliation criteria in accordance with section 777(33)(F) of the Act. In addition, we find that Inmax Sdn and Inmax Industries should be collapsed because both producers have production facilities for similar or identical products that would not require substantial retooling in order to restructure manufacturing priorities.

Additionally, there is a significant potential for the manipulation of price or production. Regarding a significant potential for the manipulation of price or production, the following criteria are all satisfied: (1) a high level of common ownership; (2) managerial overlap; and (3) intertwined operations. In particular, U.S. Customs and Border Protection (CBP) import data for entries of merchandise under review from the publication date of the preliminary determination of the investigation (*i.e.*, December 29, 2014) to March 31, 2016 (*i.e.*, subsequent to the initiation of this CCR), clearly indicate new trading patterns since the *Order* was issued in July 2015, which has the potential to undermine the efficacy and integrity of the *Order*. Furthermore, we note that the collapsing issue was not thoroughly addressed in the final determination of the investigation and that, based on record evidence, there is a significant potential for future manipulation of price or production of subject merchandise between Inmax Sdn and Inmax Industries. A list of topics discussed in the Preliminary Decision Memorandum appears in the Appendix to this notice.

If the Department upholds these preliminary results in the final results, entries of subject merchandise produced by Inmax Sdn and Inmax Industries will be subject to the AD cash deposit rate currently assigned to Inmax Sdn (*i.e.*, 39.35 percent).<sup>6</sup>

#### Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review in the *Federal Register*.<sup>7</sup> Rebuttal briefs, limited to issues raised in the case briefs, may be filed by no later than five days after the deadline for filing case briefs.<sup>8</sup> Parties that submit case or rebuttal briefs are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>9</sup> All briefs are to be filed electronically using ACCESS.<sup>10</sup> An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the day on which it is due.<sup>11</sup>

Any interested party may submit a request for a hearing to the Assistant Secretary of Enforcement and Compliance using ACCESS within 30 days of publication of this notice in the *Federal Register*.<sup>12</sup> Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.<sup>13</sup> If a request for

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<sup>6</sup> See *Certain Steel Nails From Malaysia; Final Determination of Sales at Less Than Fair Value*, 80 FR 28969 (May 20, 2015).

<sup>7</sup> See 19 CFR 351.309(c)(1)(ii). The Department has exercised its discretion under 19 CFR 351.309(c)(1)(ii) to alter the time limit for submission of case briefs.

<sup>8</sup> See 19 CFR 351.309(d)(1).

<sup>9</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>10</sup> See 19 CFR 351.303(b) and (f).

<sup>11</sup> See 19 CFR 351.303(b).

<sup>12</sup> See 19 CFR 351.310(c).

<sup>13</sup> *Id.*

a hearing is made, parties will be notified of the time and date of the hearing, which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.<sup>14</sup>

#### Final Results of the Review

Unless extended, in accordance with 19 CFR 351.216(e), the Department intends to issue the final results of this CCR not later than 270 days after the date on which the review was initiated.

#### Notification to Parties

The Department is issuing and publishing these results in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216 and 351.221(c)(3)(i).

Dated: November 16, 2016

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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<sup>14</sup> See 19 CFR 351.310(d).

## **Appendix**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Preliminary Results of the Changed Circumstances Review
  - A. Affiliation
    - Legal Standard
    - Analysis
    - Recommendation
  - B. Collapsing
    - Legal Standard
    - Analysis
      - 1. Affiliation
      - 2. Substantial Retooling of Manufacturing Facilities
      - 3. Significant Potential for Manipulation of Price or Production
        - i. Level of Common Ownership
        - ii. Managerial Overlap
        - iii. Intertwined Operations
  - C. Whether the Department Should Collapse Affiliated Parties After the Final Determination of an Investigation and Prior to the First Administrative Review Recommendation

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